

REMARKS

It is believed that the amendment to Claim 44 puts the claims in better condition for Appeal, and therefore entry of the amendment is respectfully requested. The amendment to Claim 44 corrects the dependency of Claim 44. Claim 44 before amendment depended incorrectly from Claim 23, a withdrawn claim directed to polypeptides. Claim 44 has been amended to depend from Claim 25, a claim directed to polynucleotides.

I. Rejection of Claims 25-33, 39, 41, 43, 44, and 45 Under 35 U.S.C. §101

The invention of Claims 25-33, 39, 41, 43, 44, and 45 has adequate utility as also explained in the Response filed July 23, 2003 (those comments being incorporated herein).

II. Rejection of Claims 25-33, 39, 41, 43, 44, and 45 Under 35 U.S.C. § 112, first paragraph, enablement

The invention of Claims 25-33, 39, 41, 43, 44, and 45 is adequately enabled as also explained in the Response filed July 23, 2003 (those comments being incorporated herein).

III. Rejection of Claims 25, 28, 29, 30, 32, 33, 39, 41, 44, and 45 Under 35 U.S.C. § 112, first paragraph, written description

The invention of Claims 25, 28, 29, 30, 32, 33, 39, 41, 44, and 45 is adequately described as also explained in the Response filed July 23, 2003 (those comments being incorporated herein).

IV. Provisional Rejection of Claims 25, 28, 29, 30, 32, 33, 39, 41, and 42 Under the Judicially Created Doctrine of Obviousness-type Double Patenting

The Examiner provisionally rejected Claims 25, 28, 29, 30, 32, 33, 39, 41, and 42 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 5, 6, and 7 of copending Application No. 09/539,800 (Final Office Action, page 39). Applicants request that the requirement for submission of a Terminal Disclaimer be held in abeyance until such time as there is an indication of allowable subject matter.

CONCLUSION

In light of the above remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding rejections. Early notice to that effect is earnestly solicited.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned.

The Commissioner is hereby authorized to charge Deposit Account No. **09-0108** the amount of \$ **330.00** as set forth in the accompanying transmittal letter. If the Commissioner determines that additional fees are due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No. **09-0108**.

Respectfully submitted,
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Date: December 8, 2003

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